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Attorneys for Plaintiff  
MICHAEL MONTGOMERY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT**

MICHAEL MONTGOMERY,

Plaintiff,

v.

WAL-MART STORES, INC.;  
KINDERHOOK INDUSTRIES II, L.P.;  
KINDERHOOK INDUSTRIES, L.L.C.;  
KINDERHOOK CAPITAL FUND II, L.P.  
CRESTWOOD HOLDINGS, INC.;  
BERGAN, L.L.C.;  
JOHN ELMBURG;  
ROBERT ELMBURG;  
ERIC ELMBURG;  
ROCKY FLICK;  
HOME DEPOT U.S.A., INC.;  
and Does 1 through 20, inclusive,

Defendants.

Case No. 3:12-cv-03057-JLS-DHB

**NOTICE OF WITHDRAWAL OF  
MEMORANDUM IN OPPOSITION  
TO DEFENDANTS ROBERT  
ELMBURG'S, JOHN ELMBURG'S,  
ERICK ELMBURG'S, ROCKY  
FLICK'S, CRESTWOOD  
HOLDINGS, INC.'S, AND BERGAN  
LLC'S MOTIONS TO DISMISS  
DUE TO CLERICAL ERROR  
(DOCUMENT NUMBER 49)**

Date: April 11, 2013

Time: 1:30 p.m.

Ctrm: 3B

Judge: Hon. Janis L. Sammartino

TO THE COURT AND DEFENDANTS AND THEIR COUNSEL:

PLEASE TAKE NOTICE that Plaintiff MARK MONTGOMERY hereby  
withdraws his MEMORANDUM IN OPPOSITION TO DEFENDANTS' ROBERT  
ELMBURG'S, JOHN ELMBURG'S, ERICK ELMBURG'S, ROCKY FLICK'S,

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1 CRESTWOOD HOLDINGS, INC.'S, AND BERGAN LLC'S MOTIONS TO  
2 DISMISS DUE TO CLERICAL ERROR (DOCUMENT NO. 49).

3 Dated: March 29, 2013                      FERGUSON CASE ORR PATERSON LLP  
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6                                      S/David L. Shain  
7                                      Attorneys for Plaintiff  
8                                      Michael Montgomery  
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**PROOF OF SERVICE-by Electronic Filing and Service**  
**Pursuant to General Rule Order 08-02**

*Michael Montgomery v. Wal-Mart Stores, Inc.*

United States District Court, Central District Case No. 3:12-cv-03057-JLS-DHB

**STATE OF CALIFORNIA**                     }  
**COUNTY OF VENTURA**               } ss.

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action; my business address is 1050 South Kimball Road, Ventura, California 93004.

I hereby certify that on March 29, 2013, a copy of the following documents was filed electronically and served on the parties identified below: **NOTICE OF WITHDRAWAL OF MEMORANDUM IN OPPOSITION TO DEFENDANTS ROBERT ELMBURG'S, JOHN ELMBURG'S, ERICK ELMBURG'S, , ROCKY FLICK'S, CRESTWOOD HOLDINGS, INC.'S, AND BERGAN LLC'S MOTIONS TO DISMISS DUE TO CLERICAL ERROR (DOCUMENT NUMBER 49)**

Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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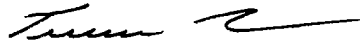
1  
2 [ **X** ] As indicated above, by **ELECTRONIC Filing** and Service Pursuant to General  
3 Rule Order 08-02; I caused the document(s) listed above via the Court's Electronic  
4 Filing System which constitutes service, pursuant to General Rule Order 08-02 of the  
5 above titled Court, and upon the counsel listed above.

6 [ ] **BY MAIL** I am "readily familiar" with the firm's practice of collection and  
7 processing correspondence for mailing. Under that practice the above envelope would  
8 be deposited with the U.S. postal service on that same day with postage thereon fully  
9 prepaid at Ventura, California in the ordinary course of business. I am aware that on  
10 motion of the party served, service is presumed invalid if postal cancellation date or  
11 postage meter date is more than one day after date of deposit for mailing in affidavit.

12 [ **X** ] (Federal) I declare that I am employed in the office of a member of the bar of this  
13 court at whose direction the service was made.

14 Executed on March 29, 2013, at Ventura, California.

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Teresa Meehan